

**REMARKS**

Claims 1-24 are pending in the application. This Amendment currently amends claims 1-5 and 7-24. No new matter is added to currently amended claims 1-5 and 7-24. Claims 1-5 and 7-24 are currently amended to merely clarify the subject matter of the claims and in no way narrow the scope of the claims in order to overcome the prior art or for any other statutory purpose of patentability. Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

Notwithstanding any claim amendments of the present Amendment or those amendments that may be made later during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Claims 1-8, 12-17, and 22-24 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bot (Time Magazine, Chris Taylor; hereinafter, Bot). Claims 9-11 and 18-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bot in view of U.S. Patent No. 5,873,069 to Reuhl et al. (hereinafter, Reuhl).

These rejections are respectfully traversed in view of the following discussion.

**I. THE CLAIMED INVENTION**

The claimed invention, as described in claim 1, is directed to a method for conducting electronic commerce that comprises electronically visiting, by a customer interested in shopping for an item, a comparison shopping site ("CompShop"), and inquiring about the item and comparative prices thereof, running, by the CompShop, a query on a plurality of electronic stores carrying the item, and asking for a price of the item, and selectively determining, by at least one of the plurality of electronic stores functioning as a "smartStore", an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores learning a best offer price received by the CompShop from all of the plurality of electronic stores.

The claimed invention, as described in claim 22, is directed to a system for conducting electronic commerce between a customer and one of a plurality of electronic stores that

comprises a plurality of electronic stores, and a comparison shopping site operatively coupled to the plurality of electronic stores and a customer interested in purchasing an item, wherein at least one of the plurality of electronic stores comprises a smartStore, and an electronic medium for linking the customer, each of the plurality of electronic stores and the comparison shopping site together electronically, wherein the comparison shopping site runs a query on the plurality of electronic stores and requests an offer price of the item, and wherein the smartStore determines a predetermined offer price of the item from the plurality of electronic stores and selectively returns one of a static price and a modified price, the modified price resulting from the smartStore learning a lowest offer price received by the comparison shopping site from all of the plurality of electronic stores.

The claimed invention, as described in claim 23, is directed to a system for performing electronic commerce that comprises a comparison shopping site (CompShop), means for electronically visiting, by a customer interested in shopping for an item, the CompShop, and inquiring about the item and comparative prices thereof, means for running, by the CompShop, a query on all of a plurality of electronic stores it is aware of, asking for a price of the item, means for determining, by at least one of the plurality of electronic stores, an offer price of the item and returning one of a static price and a modified price, the modified price resulting from at least one of the plurality of electronic stores learning a lowest offer price received by the CompShop from all of the plurality of electronic stores.

The claimed invention, as described in claim 24, is directed to a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method of conducting electronic commerce, where the method comprises electronically visiting, by a customer interested in shopping for an item, a comparison shopping site (CompShop), and inquiring about the item and comparative prices thereof, running, by the CompShop, a query on all a plurality of electronic stores it is aware of asking for a price of the item, and determining, by at least one of the plurality of electronic stores, an offer price of the item and returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores learning a lowest offer price received by the

CompShop from all of the plurality of electronic stores.

An aspect of the claimed invention supplies to a CompShop a modified price from a smartShop to a customer, if and only if the customer has accessed the CompShop and the smartShop determines that a modified price based on competitive prices and its profit margin is necessary.

## II. THE PRIOR ART REJECTIONS

### A. The Bot Reference

Bot discloses "a world in which every transaction becomes a complex trade deal between a pricing bot acting for the site and a shopping bot acting for you." (page 2, paragraph 10).

Bot also discloses that "[t]his bot-driven universe won't arrive until a few kinks have been ironed out. Right now ... price bots don't understand that undercutting your competitor is not always smart. 'This gives rise to price wars,' says Kephart, who in tests has watched the sell bots give the store away in a competitive frenzy." (page 2, paragraph 12).

Claim 1 recites at least the features of "selectively determining, by at least one of the plurality of electronic stores functioning as a "smartStore", an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores learning a best offer price received by the CompShop from all of the plurality of electronic stores."

Similarly, claim 22 recites at least the features of "wherein the smartStore determines a predetermined offer price of the item from the plurality of electronic stores and selectively returns one of a static price and a modified price, the modified price resulting from the smartStore learning a lowest offer price received by the comparison shopping site from all of the plurality of electronic stores."

Similarly, claim 23 recites at least the features of "means for determining, by at least one of the plurality of electronic stores, an offer price of the item and returning one of a static price and a modified price, the modified price resulting from at least one of the plurality of electronic stores learning a lowest offer price received by the CompShop from all of the plurality of

electronic stores."

Similarly, claim 24 recites at least the feature of "determining, by at least one of the plurality of electronic stores, an offer price of the item and returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores learning a lowest offer price received by the CompShop from all of the plurality of electronic stores."

The claimed invention, in fact, solves the problem of "price bots don't understand that undercutting your competitor is not always smart" described by the Bot reference. The smartStore of the claimed invention offers either (1) the static price, (a) if the customer does not obtain its price information through the CompShop, or (b) if the customer obtains his price information through the CompShop but the smartStore need not offer a modified price to meet a competitor's price, or (2) the modified price, if the customer obtains his price information through the CompShop and competition requires the smartStore to offer the modified price. Whereas, the bots of Bot always return a lower price to undercut the competition; thus, leading to the ruinous price wars described by Bot.

The Bot reference describes comparison shopping agents that use comparison prices for a seller-side auction, where they compete with each other by creating a price war.

In contrast, the comparison shopping site (CompShop) of the claimed invention is used as an agent for both the customer and the smartStore to specify who has the best price. In the claimed invention, the smartStore also uses the CompShop to verify that the customer has accessed the CompShop and then will attempt to modify the price, if necessary, to achieve a lowest price. The customer is not aware of the smartStore's possible modification of price.

Furthermore, the customer, the CompShop, and the smartStore of the claimed invention provide the following interactions: (1) price request from customer to CompShop; (2) price request from CompShop to a plurality of electronic stores including at least one smartStore; (3) request from smartStore to CompShop for comparative prices; (4) returning to the CompShop from the smartStore either a modified price, if the smartStore's modified price is both lower than any other price offered by the plurality of electronic stores and is commensurate with the

smartStore's profit goals, or a static price; and (6) customer purchase from one of the plurality of electronic stores or the smartStore, as determined by the price comparison offered by the CompShop.

Nowhere does Bot disclose, teach or suggest the feature of "selectively determining, by at least one of the plurality of electronic stores functioning as a "smartStore", an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores learning a best offer price received by the CompShop from all of the plurality of electronic stores," as recited in claim 1 and similarly recited in claims 22-24.

For at least the reasons outlined above, Applicant respectfully submits that Bot does not disclose, teach or suggest every feature of claims 1 and 22-24. Accordingly, Bot does not anticipate, or render obvious, the subject matter of claims 1 and claims 2-21, which depend from claim 1, and claims 22-24. Withdrawal of the rejection of claims 1-8, 12-17, and 22-24 as anticipated by Bot under 35 U.S.C. §102(e) is respectfully solicited.

#### **B. The Reuhl Reference**

Reuhl, as described by claim 9, discloses "An enterprise-wide integrated computer system for storing, processing and reporting pricing information regarding a plurality of products sold [by] a plurality of stores in a plurality of markets." Reuhl also discloses "said pricing program comprising ... means for changing pricing data at predetermined intervals on the basis of a price change frequency pattern, said means for changing price data including means for ... capturing, modifying and processing said pricing data to provide updated pricing data according to predetermined ruled ...said predetermined rules including creation of a cent-coded price by changing an ending cent in said new active price in accordance with a cent code corresponding to a profit margin of the product."

Reuhl also describes an automated system that provides a buyer at the point of sale with price comparisons among competitors to ascertain the best price available for a product or a substantially similar product (col. 3, lines 8-11).

Claim 1 recites at least the features of "electronically visiting, by a customer interested in shopping for an item, a comparison shopping site ("CompShop"), ... and selectively determining, by at least one of the plurality of electronic stores functioning as a "smartStore", an offer price of the item and selectively returning one of a static price and a modified price."

As described above, Bot discloses a two-way interaction between a pricing bot acting for the seller and a shopping bot acting for the customer. Nowhere does Bot disclose a three-way interaction between customer, CompShop, and a seller, i.e., one of the plurality of electronic shops including at least one smartStore in the claimed invention, in which a smartStore selectively returns one of a static price and a modified price to the CompShop.

Ruehl does not cure the deficiencies of Bot. Ruehl discloses an enterprise-wide integrated computer system for storing, processing and reporting pricing information regarding a plurality of products that may provide a buyer at the point of sale with price comparisons among competitors to ascertain the best price available for a product. Ruehl, in effect, is a two-way interactive system between seller, i.e., the enterprise-wide integrated computer system and the customer, and lacks an interactive entity analogous to the CompShop of the claimed invention. Thus, Ruehl lacks the three-way interaction of the claimed invention in which CompShop supplies a modified price from a smartShop to a customer, if and only if the customer has accessed the CompShop and the smartShop returns a modified price based on competitive prices and its profit margin.

In addition, Ruehl's system changes pricing data at predetermined intervals on the basis of a price change frequency pattern and not in response to a request for pricing data requested by a customer to a CompShop. Ruehl's system is not interactive between the entities of customer, CompShop, and smartStore.

Furthermore, Ruehl's system is not a dynamic system. It has a database for storing pricing and date information and produces a report of competitive pricing. Ruehl's system is just a store and report system.

Therefore, nowhere does Ruehl teach or suggest the features of "electronically visiting, by a customer interested in shopping for an item, a comparison shopping site ("CompShop"), ... and

selectively determining, by at least one of the plurality of electronic stores functioning as a "smartStore", an offer price of the item and selectively returning one of a static price and a modified price," as recited in claim 1.

For at least the reasons outlined above, Applicant respectfully submits that Bot and Ruehl, either individually or in combination, do not disclose, teach or suggest every feature of claim 1. Accordingly, Bot and Ruehl, either individually or in combination, fail to render obvious the subject matter of claim 1 and claims 9-11 and 18-21, which depend from claim 1, under 35 U.S.C. §103(a). Withdrawal of the rejection of claims 9-11 and 18-21 under 35 U.S.C. §103(a) as unpatentable over Bot in view of Ruehl is respectfully solicited.

### III. CONCLUSION

In view of the foregoing, Applicant submits that claims 1-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,

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Peter A. Balnave  
Peter A. Balnave, Reg. No. 46,199

**McGinn & Gibb, PLLC**  
8321 Old Courthouse Road  
Vienna, Virginia 22182-3817  
(703) 761-4100  
**Customer No. 21254**